

IV. ADMINISTRATION OF SECTION 13a

A. Procedures and Decisional Considerations

Section 13a is divided into two parts. Section 13a(1) is concerned with the discontinuance or change in whole or in part of interstate trains or ferries. Section 13a(2) is concerned with trains or ferries operated solely within one state. In order for the Commission to have jurisdiction over an intrastate train, the carrier seeking discontinuance must have first filed an application for discontinuance with the regulatory commission of the state in which the train is operated, and the state commission must have denied such application or failed to act thereon within 120 days. Our jurisdiction over interstate trains is invoked by an initial direct filing with the Commission, although carriers can seek relief under applicable state law or regulation. ²⁴

Congress has given the power to the railroads fully and directly through section 13a(1) to discontinue any interstate train they choose, and the Commission has no power to enjoin the carrier unless it can find that the service involved "is required by the public convenience and necessity and will not unduly burden interstate or foreign commerce." (Underscoring applied)

Similarly, the Commission has the jurisdiction, invokable under section 13a(2), to reverse a state agency's failure to authorize the discontinuance of an intrastate

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A full description of the procedural aspects of discontinuance cases can be found in The Hearings Before The Subcommittee on Housing and Urban Affairs of The Committee on Banking and Currency on the Effect of Railroad Mergers On Commuter Transportation, 90th Cong. 2nd Sess. at 221 (1968).